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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/497,328	02/03/2000	Sepehr Mehrabanzad	CX098043	7358	
23125	7590 05/06/2003				
MOTOROLA INC AUSTIN INTELLECTUAL PROPERTY LAW SECTION 7700 WEST PARMER LANE MD: TX32/PL02 AUSTIN, TX 78729			EXAMINER		
			CORRIELUS, JEAN B		
			ART UNIT	PAPER NUMBER	
,		·	2631	7	
			DATE MAILED: 05/06/2003		

Please find below and/or attached an Office communication concerning this application or proceeding.

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A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time reply to evaluate under the provisions of 3° CFR 1.35(s). In no event, however, may a reply be timely filed Extension to time reply to evaluate under the provision of 3° CFR 1.35(s). In no event, however, may a reply be timely filed  If the period for reply specified show is less than thery (30) days, a reply within the statutory minimum or thinly (30) days will be considered threaty.  If the period for reply is specified shows is less than thery (30) days, a reply within the statutory minimum or thinly (30) days will be considered threaty.  If the period for reply is specified shows is less than thery (30) days, a reply within the statutory minimum or the mailing date of this communication.  If the period for reply is specified shows is less than thery (30) days and will expire 30 (8) MONTHS from the mailing date of this communication.  If the period for the second communication (5) filed on 03 February 2000.  Responsive to communication (5) filed on 03 February 2000.  This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-11 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 9-11 is/are pending in the application.  4a) Claim(s) 1-12 is/are allowed.  6) Claim(s) 9-11 is/are rejected.  7) Claim(s) is/are allowed.  6) Claim(s) 9-11 is/are rejected to by the Examiner.  4pplication Papers  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  If approved, corrected drawings are required in reply to this Office action.  11) The proposed drawings are				
Examiner Joan B Corrielus		Application No.	Applicant(s)	1
Jean B Corrietus   Jean B Corr		09/497,328	MEHRABANZAD ET AL.	
- The MALLING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MALLING DATE OF THIS COMMUNICATION.  Extensions of term raple availation under the provisions of 37 CFR 1.13(a). In no event, however, may a raply be timely filled  If the period for reply specified above is less than traby (30) days, and reply within the adultory minimum of thinly (30) days will be considered timely.  If the period for reply specified above is less than traby (30) days, and reply within the adultory minimum of thinly (30) days will be considered timely.  If the period for reply specified above is less than traby (30) days, and provided in the specified and the spec	Office Action Summary	Examiner	Art Unit	
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Application/Control Number: 09/497,328

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#### **DETAILED ACTION**

### Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the citizenship of each inventor.

### Claim Objections

2. Claim 10, line 3, shouldn't "in" be deleted? Appropriate correction is required.

# Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 4. Claims 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Li et al US Patent No. 5,864,560.

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Li et al discloses a method and apparatus having the step of transmitting information used to configure a transmitter in the data mode without entry back to into the startup mode whereby inband signaling is used to reconfigure a modem transmitter without having to switch to the startup mode see col. 11, lines 10-13, lines 23-25, lines 48-54 and lines 60-64, col. 12, lines 45-49, thus eliminating inherently swichtover time and taking advantage of higher data rate associated with the data mode.

## Claim Rejections - 35 USC § 103

- 5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Li et al in view of applicant's background of the invention page 4, lines 15-19.

As applied to claim 10 above, Li et al discloses every feature of the claimed invention but does not explicitly teach the further limitation recited in claim 11. However, such limitation is old and well known in the art as acknowledge by applicant see page 4, lines 15-19. It would have been obvious to one skilled in the art to incorporate such a teaching in Li et al so as to take advantage of higher data rate provided in the data mode.

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# Allowable Subject Matter

- 7. Claims 1-8 are allowed.
- 8. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023.

The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Jean B. Corriells 4.30.03

Primary Examiner

TC-2600